

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division**

IN RE:)
)
SHANNON DIXON STRAUB) Case No. 15-35823-KLP
) Chapter 13
Debtor)

MOTION TO AVOID LIENS

COMES NOW, the Debtor, by counsel, and as and for Debtor's Motion to Avoid Nonpossessory, Nonpurchase- Money Judgment Liens, states as follows:

1. The Debtor commenced this case on November 11, 2015 by filing a voluntary petition for relief under Chapter 13 of Title 11 of the United States Bankruptcy Code.
2. The estate of the Debtor includes an interest in real estate located at 9127 Newcastle Drive, Mechanicsville, Virginia 23116, more particularly described as:

All that certain lot Piece or parcel of land with all improvements thereon and appurtenances thereto belonging, lying and being in the County of Hanover, Virginia and Shown and designated as Lot 4 Block C, Section One, on Subdivision Plat of Ash Creek, Recorded in the Clerk's Office of the Circuit Court of Hanover County, Virginia, in Subdivision Plat Book 7, page 279, to which plat reference is hereby made for a more particular description of the property.

(“Property”)

3. Truist Bank f/k/a Branch Banking & Trust Company (“Truist”) has claimed a judgment lien of \$4,562.69 against the Property (“First Judgment Lien”).

James E. Kane (VSB# 30081)
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P. O. Box 508
Richmond, Virginia 23218-0508
Telephone (804) 225-9500
Counsel for Debtor

4. Capital One Bank (“Capital One”) has claimed a judgment lien of \$3,905 against the Property (“Second Judgment Lien”).

5. The Property has been claimed as fully exempt in Debtor’s bankruptcy case.

6. The existence of Truist’s and Capital One’s judgment liens on the Property impairs exemptions to which the Debtor would be entitled under 11 U.S.C. § 522(b).

7. In addition, there is a recorded first deed of trust against the Property by Wells Fargo Bank, N.A. (“Wells Fargo”), which at the time of the filing of this case had an approximate balance of \$164,928.30, and which deed of trust is dated April 27, 2004 and is recorded in the Clerk’s Office of the Hanover County Circuit Court in Deed Book 2307 at Page 747 (“First Deed of Trust”).

8. There is also a recorded second deed of trust against the Property by PNC Bank (“PNC”), which at the time of the filing of this case had an approximate balance of \$46,740. (“Second Deed of Trust”)

9. Based upon the value of the Property (\$249,000.00) and the balance of the note secured by the First Deed of Trust and Second Deed of Trust, the First Judgement Lien and the Second Judgment Lien on the Property are fully unsecured.

10. The Debtor’s confirmed Chapter 13 plan provides for the avoidance of the aforesaid nonpossessory, non-purchase money judgment liens of Truist and Capital One.

WHEREFORE, Debtor prays for an order avoiding Truist’s and Capital One’s judgment liens against the Property, and for such additional or alternative relief as may be just and proper.

Respectfully submitted,

SHANNON DIXON STRAUB
By Counsel

/s/ James E. Kane

James E. Kane (VSB# 30081)
Kane & Papa, P.C.
P. O. Box 508
Richmond, Virginia 23218-0508
Telephone (804) 225-9500
Counsel for Debtor

CERTIFICATE OF SERVICE

I hereby certify that on February 5, 2021, I will electronically file the foregoing with the Clerk of Court using the CM/ECF system, which will then send a notification of such filing (NEF) to all parties registered to receive notice thereof and I mailed a true and exact copy of the of the foregoing motion, by Certified Mail to:

Capital One Bank
c/o Richard D. Fairbank, CEO
1680 Capital One Drive
McLean, VA 22102

Truist Bank
c/o Christopher L. Henson, President
200 West Second Street
Winston-Salem, NC 27101

/s/ James E. Kane

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NOTICE OF MOTION

The above Debtor has filed a Motion to Avoid Liens of Truist Bank and Capital One Bank.

Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one.)

If you do not want the court to grant the relief sought in the motion, or if you want the court to consider your views on the motion, then within twenty-one (21) days from the date of this Motion, you or your attorney must:

- File with the court, at the address shown below, a written request for a hearing [or written response pursuant to Local Bankruptcy Rule 9013-1(H)]. If you mail your request for a hearing (or response) to the court for filing, you must mail it early enough so the court will receive it on or before the date stated above, to:

Clerk of Court
United States Bankruptcy Court
701 East Broad Street
Richmond, VA 23219

You must also mail a copy to:

James E. Kane, Esquire
Kane & Papa, P.C.
1313 East Cary Street
Richmond, Virginia 23219

- Attend a hearing to be scheduled at a later date. You will receive a separate notice of hearing. If no timely response has been filed opposing the relief requested, the court may grant the relief without holding a hearing.

If you or your attorney do not take these steps, the court may decide that you do not oppose the relief sought in the motion or objection and may enter an order granting that relief.

Respectfully submitted,

SHANNON DIXON STRAUB
By Counsel

/s/ James E. Kane

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/s/ James E. Kane

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